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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,519	02/28/2005	Kyoko Yokoi	TIP-05-1007	1423

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IP GROUP OF DLA PIPER US LLP  
ONE LIBERTY PLACE  
1650 MARKET ST, SUITE 4900  
PHILADELPHIA, PA 19103

EXAMINER
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CHRISS, JENNIFER A

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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01/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,519	<b>Applicant(s)</b> YOKOI ET AL.	
	<b>Examiner</b> JENNIFER A. CHRISS	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5 - 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Applicant's Remarks, filed October 29, 2007, has been entered and has been carefully considered. The invention as currently claimed is not found to be patentable for reasons herein below.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102/103***

3. Claims 5 and 7 remain rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gandhi et al. (US 6,844,276). The details of the rejection can be found in paragraph 4 of the Office Action dated 9/17/07. The rejection is maintained.

### ***Claim Rejections - 35 USC § 103***

4. Claims 6 and 8 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Gandhi et al. (US 6,844,276) in view of Pedain et al. (US 3,867,350). The details of the rejection can be found in paragraph 5 of the Office Action dated 9/17/07. The rejection is maintained.

### ***Response to Arguments***

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5. Applicant's arguments filed 10/29/07 have been fully considered but they are not persuasive.

6. Applicant argues that Gandhi does not disclose red, blue and yellow pigments as required by the claim, but instead dyes. Applicant additionally notes that the polyurethane of the instant invention is not colored by the dyes but is colored by the preliminary dispersion of the pigments in the polyurethane solution. As noted in the applied rejection, Gandhi teaches a substrate of nonwoven sanded microfiber impregnated with polyurethane was subjected to a dyeing procedure of a dyeing process and scouring process. The dyeing process included placing 200 pounds of the substrate textile in a 500 gallon bath having dyes and dyeing auxiliaries therein. In the Example, the dyes were CI disperse red 86 (such as Terasil Pink 2 GLA by Ciba, Inc.), CI disperse red 159 (such as Dianix Red BLS by Dystar), CI disperse blue 77 (such as Terasil Blue BLF by Ciba, Inc.), CI disperse blue 60 (such as Terasil Blue BGF by Ciba, Inc.), and CI disperse yellow (such as Dorosperse Yellow KHM by D&G, Inc.). Also, in the Example, the dye auxiliaries were Acetic Acid, a leveling agent, a dispersing agent, a de-foamer, and a UV absorber (see Gandhi, column 2, lines 4 – 20). The Examiner submits that the polyurethane would be dyed by the red, blue and yellow dyes in the dye bath resulting in a polyurethane with red, blue and yellow color. Although, Gandhi discusses use of "dyes" and Applicant claims "pigments", in the final product, both materials would effectively color the polyurethane substrate. The Applicant does not claim the argued process steps but instead only the final product. Additionally, according to Hawley's Condensed Chemical Dictionary, there is no generally accepted

distinction between dyes and pigments. Some have proposed one on the basis of solubility or physical form and method of application. It should be noted that all of these would affect the process by which the claimed material is made but would not be distinctive in the final product. The burden is upon the Applicant to provide evidence that the product of Gandhi would result in physically different final product from what is claimed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER A. CHRISS whose telephone number is (571)272-7783. The examiner can normally be reached on Monday - Thursday, 8 am - 6 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571 - 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JC/  
Examiner, Art Unit 1794  
January 9, 2008

/Ula C Ruddock/  
Primary Examiner, Art Unit 1794